

U.S. Department of Justice

United States Attorney Eastern District of New York

DGR:DAS:BDM/TRP F. #2016R00467 271 Cadman Plaza East Brooklyn, New York 11201

March 14, 2024

Via ECF

The Honorable Margo K. Brodie Chief United States District Judge Eastern District of New York 225 Cadman Plaza East Brooklyn, New York 11201

Re: In Re Forfeiture Order of Tim Leissner

Miscellaneous Docket No. 23-1505 (MKB)

Dear Chief Judge Brodie:

The government respectfully submits this letter to provide a status report regarding the above-referenced criminal forfeiture ancillary proceeding. As the Court is aware, to date, four claimants have filed petitions in this ancillary proceeding involving 3,325,942 shares of stock in Celsius Holdings, Inc. (the "Celsius Shares"). See ECF Dkt. Nos. 3-5, 8.

With respect to claimant Kimora Lee Simmons, settlement discussions between the government and Kimora Lee Simmons have continued and, based upon the progress of those discussions, the parties respectfully request that the briefing schedule previously set by the Court for the government's motion to dismiss Kimora Lee Simmons's petition be adjourned <u>sine die</u>, and the parties be allowed an additional period of 60 days for continuation of their settlement discussions in an effort to resolve Kimora Lee Simmons's claims without further litigation.

With respect to claimant Ken Siazon, the parties propose the following motion schedule for the government's motion to dismiss Siazon's Petition pursuant to Fed. R. Crim. P. 32.2(c)(1)(A): (i) the government's motion shall be filed on or before May 13, 2024; (ii) Claimant's opposition shall be filed on or before June 12, 2024; and (iii) the government's reply shall be filed on or before June 26, 2024.

With respect to claimant Ng Chong Hwa, the government is advised by counsel for claimant that she will advise of claimant's position regarding a continuation for settlement negotiations when she has had an opportunity to confer with claimant.

With respect to claimant Russell Simmons, derivatively on behalf of Nu Horizons Investment Group, LLC, on February 9, 2024, the Court directed the parties to engage in discovery limited to the threshold question of whether Simmons held, as of the date of the filing of his third-party petition, a membership interest in Nu Horizons Investment Group, LLC sufficient to confer standing upon him to assert a derivative claim on behalf of the corporate entity. See Memorandum & Order, Dkt. #32, at 9-10. On March 8, 2024, the government filed a letter requesting an extension of the discovery schedule, from March 11, 2024 to May 17, 2024. See Government's Motion, Dkt. #33. On March 9, 2024, claimant submitted a letter opposing the proposed modification of the discovery schedule. See Claimant's Opposition, Dkt. #34. On March 14, 2024, the government filed a letter in reply to claimant's opposition. See Government's Reply, Dkt. #35.

The government respectfully requests that it be directed to submit another report on or before May 20, 2024 advising the Court of the status of all claims, including the outcome of settlement discussions.

Thank you for Your Honor's consideration of this submission.

Respectfully submitted,

BREON PEACE United States Attorney

By: /s/

Drew G. Rolle Dylan A. Stern Brian D. Morris Tanisha R. Payne Assistant U.S. Attorneys (718) 254-7000

cc: All Counsel of Record (by ECF)